



PUBLIC NOTICE

Federal Communications Commission
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DA 07-513
February 1, 2007

**PLEADING CYCLE ESTABLISHED FOR COMMENTS ON THE PETITION
OF LOCUS TELECOMMUNICATIONS, INC. FOR A DECLARATORY RULING OR
RULEMAKING REGARDING CUSTOMER SERVICE CALLS FROM PAYPHONES,
AND A MOTION TO DISMISS FILED BY APCC**

RM-11354

Comments Due: March 5, 2007

Reply Comments Due: March 20, 2007

On December 1, 2006, Locus Telecommunications, Inc. (Locus) filed a petition for a declaratory ruling that calls to a prepaid calling card provider's toll-free customer service numbers are not subject to payphone compensation or, in the alternative, to initiate a rulemaking.¹ In its Petition, Locus asks the Commission to issue a declaratory ruling that customer service calls are not compensable under section 276 of the Communications Act.² If the Commission declares these calls compensable, Locus requests clarification that only calls that are actually answered by a customer service representative are considered completed.³ Locus further requests that the Commission establish a significantly reduced alternate default compensation rate for customer service calls to minimize financial hardship on prepaid calling card providers.⁴ In the alternative, Locus requests the Commission to initiate a rulemaking proceeding to address the issues raised by its petition.⁵

On December 14, 2006, the American Public Communications Council, Inc. and its affiliated compensation collection clearinghouse, APCC Services, Inc. (collectively, APCC) filed a Motion to

¹ *Petition of Locus Telecommunications, Inc. for a Declaratory Ruling that Calls to a Prepaid Calling Card Provider's Toll-Free Customer Service Numbers are not Subject to Payphone Compensation or, in the Alternative, to Initiate a Rulemaking*, RM-11354 (filed Dec. 1, 2006) (Petition).

² *Id.* at 1-2.

³ *Id.* at 2.

⁴ *Id.* Locus states that it is in the public interest to provide toll-free customer service numbers, and various state laws mandate the provisioning of toll-free access to customer service without cost to the prepaid customer. *Id.*

⁵ *Id.*

Dismiss the Petition.⁶ In response to the Petition, APCC contends that there is no uncertainty that toll-free calls completed to a carrier's customer service number – just like toll-free calls completed to any other company's customer service number – are subject to compensation.⁷ APCC argues that there is no conflict between the Commission's rule requiring compensation for customer service calls and state laws prohibiting charges to the caller for customer service calls because "in adopting a carrier-pays compensation rule, the Commission did not attempt to dictate at all how carriers should recover compensation costs from their customers."⁸ In response to Locus's request for a lower compensation rate, APCC states that it is "a matter to be determined in a rulemaking – not in a request for interpretation of a rule that clearly states only a single applicable per-call rate."⁹ APCC further adds that calls to carriers' customer service departments are indisputably completed when answered by the carrier – whether the call is handled by a human receptionist or an interactive-voice response (IVR) system.¹⁰ APCC urges the Bureau to dismiss the Petition.¹¹

This Public Notice establishes certain procedural requirements relating to consideration of the Petition and Motion to Dismiss. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

Pursuant to Section 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the Petition and Motion to Dismiss on or before **March 5, 2007** and reply comments on or before **March 20, 2007**. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Two (2) courtesy copies must be delivered to Janice M. Myles, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 5-C327, Washington, DC 20554, or via e-mail janice.myles@fcc.gov; and one (1) copy must be sent to Best Copy and Printing, Inc., Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to FCC@BCPIWEB.COM.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to

⁶ APCC's Motion to Dismiss Locus Telecommunications, Inc.'s Petition for a Declaratory Ruling (filed Dec. 14, 2006) (Motion to Dismiss).

⁷ *Id.* at 3.

⁸ *Id.* at 4.

⁹ *Id.* at 7.

¹⁰ *Id.* at 7-8.

¹¹ *Id.* at 10.

<<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at FCC@BCPIWEB.COM. People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

For further information regarding this proceeding, contact Denise Coca, Competition Policy Division, Wireline Competition Bureau, (202) 418-0574, or via e-mail denise.coca@fcc.gov.

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